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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/553,141

10/14/2005

Istvan Dobos

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1761

7590
Joseph G Seeber
P O Box 750
Great Falls, VA 22066

11/27/2007

EXAMINER

COLLINS, MICHAEL

ART UNIT

PAPER NUMBER

3651

MAIL DATE

DELIVERY MODE

11/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/553,141	Applicant(s) DOBOS, ISTVAN	
	Examiner Michael K. Collins	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. The previously indicated allowability of claims 12-25 pursuant to a proper amendment of the claims rejected under 35 U.S.C. 112, 2nd paragraph is withdrawn in view of the newly discovered reference(s) to Hayden (Australian Serial No. 2003901349 and USP 7,086,198). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 12, 18-19, and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayden (Australian Serial No. 2003901349 and USP 7,086,198).

Regarding claim 12, Hayden discloses automatic flower-selling equipment, comprising:

- a housing (10) including a casing having a selecting partial unit (40) situated thereon, and defining a storage space suitable for storing and protecting flowers (23);
- a bearing unit (25) situated in the storage space of the housing for displaying the flowers;
- a moving unit (14) connected to the bearing unit; and
- a control unit (36) connected to the moving unit;
- wherein the control unit is connected to the selecting partial unit situated on the casing of the housing (see column 3 lines 19-37);
- wherein the bearing unit has a supporting column rotatably attached to the housing and supporting structures (16) attached at different respective vertical positions to the supporting column (see Figure 2);
- wherein the supporting structures have a supporting tray (16) suitable for supporting the flowers and several separating sheets (26) dividing the supporting trays into parts, and at least one delivery door (24) being arranged on the casing of the housing, said at least one delivery door being connected to a delivery outlet for removing chosen flowers (see column 3 lines 23-37);
- wherein at least some of the supporting structures (32) have a distribution ring cooperating with the supporting tray, situated above the supporting tray, and having a projection perimeter at least partly bordering an outside perimeter of a

projection of the supporting tray falling on a reference plane at right angles to a longitudinal axis of a supporting column (see Figure 1);

- wherein the separating sheets (26) are arranged at regular intervals radially on the distribution ring independently of the supporting tray, and the delivery outlet situated adjacent to the distribution ring is equipped with a cross-section restricting mask corresponding to a size of the interval between the two separating sheets (see Figure 1);
- whereby the delivery outlet is restricted to the delivery window in accordance with the interval (see column 2 lines 64-66).

However, Hayden does not disclose automatic flower-selling equipment comprising all of the parts of the supporting tray in between two adjacent separating sheets being identified with individual distinctive marks, and a curve between two separating sheets of the distribution ring that is identified with the distinctive marks. Yet, these differences are merely ornamental. A change in ornamental design having no mechanical function is an aesthetic design consideration within the skill of the art. In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Hayden by including all of the parts of the supporting tray in between the two adjacent separating sheets being identified with individual distinctive marks, and a curve between two separating sheets of the distribution ring that is identified with the distinctive marks because these are both aesthetic design considerations.

Regarding claim 18, Hayden discloses automatic flower-selling equipment that is obvious over the automatic flower-selling equipment of claim 12. Furthermore, Hayden discloses equipment further comprising a money-handling partial unit (34) combined with the selecting partial unit (40).

Regarding claim 19, Hayden discloses automatic flower-selling equipment that is obvious over the automatic flower-selling equipment of claim 12. Furthermore, Hayden discloses equipment further comprising air-conditioning equipment (22) connected to the storage space of the housing.

Regarding claim 21, Hayden discloses automatic flower-selling equipment that is obvious over the automatic flower-selling equipment of claim 12. Furthermore, Hayden discloses equipment wherein the casing of the housing includes door elements situated adjacent to and along the supporting structures (see column 3 lines 34-37).

Regarding claim 22, Hayden discloses automatic flower-selling equipment that is obvious over the automatic flower-selling equipment of claim 21. Furthermore, Hayden discloses equipment wherein the door (18) elements are large, arched and made of a transparent material.

Regarding claim 23, Hayden discloses automatic flower-selling equipment that is obvious over the automatic flower-selling equipment of claim 12. Furthermore, Hayden discloses equipment (40) wherein the selecting partial unit includes a display unit and a data input unit.

Regarding claim 24, Hayden discloses automatic flower-selling equipment that is obvious over the automatic flower-selling equipment of claim 12. Furthermore, Hayden

discloses equipment wherein the distribution ring has individual curves, and wherein the individual curves of the distribution ring and the position of the supporting column in relation to the delivery door are allocated to each other, via the control unit, by means of a distinctive mark (see column 2 lines 59-63).

Regarding claim 25, Hayden discloses automatic flower-selling equipment that is obvious over the automatic flower-selling equipment of claim 12. Furthermore, Hayden discloses equipment further comprising an opening structure inserted between the housing and the delivery door (see column 3 lines 28-29).

5. Claims 13-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayden as applied to claims 12, 18-19, and 21-25 above, and further in view of Tilghman (USP 986,875).

Regarding claim 13, Hayden discloses automatic flower-selling equipment that is obvious over the automatic flower-selling equipment of claim 12. However, Hayden does not disclose equipment wherein at least some of the supporting trays are equipped with a water-storage trough. Tilghman discloses automatic flower-selling equipment wherein at least some of the supporting trays are equipped with a water-storage trough (see column 3 lines 51-53). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Hayden by including at least some of the supporting trays to be equipped with a water-storage trough, as disclosed by Tilghman, for the purpose of keeping floral arrangements from fading (see column 1 lines 9-15).

Regarding claim 14, Hayden in view of Tilghman disclose automatic flower-

selling equipment that is obvious over the automatic flower-selling equipment of claim 13. However, Hayden does not disclose equipment further comprising a water recirculating partial unit disposed in the housing, the water recirculating partial unit including a water-storage tank, a pump and water-conducting passages. Tilghman discloses automatic flower-selling equipment further comprising a water recirculating partial unit disposed in the housing, the water recirculating partial unit including a water-storage tank (see column 3 lines 51-53), a pump (41) and water-conducting passages (38). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Hayden by including equipment further comprising a water recirculating partial unit disposed in the housing, the water recirculating partial unit including a water-storage tank, a pump and water-conducting passages, as disclosed by Tilghman, for the purpose of keeping floral arrangements from fading (see column 1 lines 9-15).

Regarding claim 15, Hayden in view of Tilghman disclose automatic flower-selling equipment that is obvious over the automatic flower-selling equipment of claim 14. However, Hayden does not disclose equipment wherein at least some of the water-conducting passages are situated inside the supporting column. Tilghman discloses automatic flower-selling equipment wherein at least some of the water-conducting passages are situated inside the supporting column (see Figure 1). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Hayden by including at least some of the water-conducting passages to be situated inside the supporting column, as disclosed by Tilghman, for the

purpose of keeping floral arrangements from fading (see column 1 lines 9-15).

Regarding claim 16, Hayden discloses automatic flower-selling equipment that is obvious over the automatic flower-selling equipment of claim 12. However, Hayden does not disclose equipment further comprising a water recirculating partial unit disposed in the housing, the water recirculating partial unit including a water-storage tank, a pump and water-conducting passages. Tilghman discloses automatic flower-selling equipment further comprising a water recirculating partial unit disposed in the housing, the water recirculating partial unit including a water-storage tank (see column 3 lines 51-53), a pump (41) and water-conducting passages (38). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Hayden by including equipment further comprising a water recirculating partial unit disposed in the housing, the water recirculating partial unit including a water-storage tank, a pump and water-conducting passages, as disclosed by Tilghman, for the purpose of keeping floral arrangements from fading (see column 1 lines 9-15).

Regarding claim 17, Hayden in view of Tilghman disclose automatic flower-selling equipment that is obvious over the automatic flower-selling equipment of claim 16. However, Hayden does not disclose equipment wherein at least some of the water-conducting passages are situated inside the supporting column. Tilghman discloses automatic flower-selling equipment wherein at least some of the water-conducting passages are situated inside the supporting column (see Figure 1). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's

invention to modify Hayden by including at least some of the water-conducting passages to be situated inside the supporting column, as disclosed by Tilghman, for the purpose of keeping floral arrangements from fading (see column 1 lines 9-15).

Regarding claim 20, Hayden discloses automatic flower-selling equipment that is obvious over the automatic flower-selling equipment of claim 12. However, Hayden does not disclose equipment further comprising a skirt combined with, and disposed below, the distribution ring. Tilghman discloses automatic flower-selling equipment further comprising a skirt (68) combined with, and disposed below, a distribution ring (69). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Hayden by including a skirt combined with, and disposed below, the distribution ring, as disclosed by Tilghman, for the purpose of enabling a shelf to be easily lifted out (see column 4 lines 119-124).

Response to Arguments

6. Applicant's arguments regarding the abstract filed 9/10/2007 have been fully considered but they are not persuasive. The applicant has yet to amend the abstract according to the USPTO guidelines. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. **It is important that the abstract not exceed 150 words in length** since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal

phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

7. The objection of claim 23 has been withdrawn.

8. Applicant's arguments, see page 6 of **REMARKS**, filed 9/10/2007, with respect to the rejection(s) of claim(s) 12-25 under 35 U.S.C. 112, 2nd paragraph have been fully considered and are persuasive as a result of the amendment. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Hayden and Tilghman (see above).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael K. Collins whose telephone number is (571) 272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone

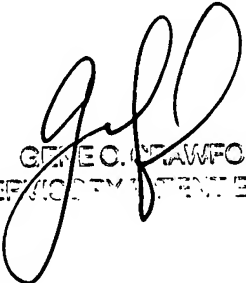
Application/Control Number:
10/553,141
Art Unit: 3651

Page 11

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.C.
11/26/2007


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